THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.12168 OF 2005

DATED: 10-04-2006

BETWEEN

Md. Chand, S/o. Late Mohd. Fakir Saheb,

Occ: Business, R/o. Hyderabad.

...PETITIONER

AND

The Commissioner, circle – IV,

Municipal Corporation of Hyderabad,

Tank Bund, Hyderabad and

others.

...RESPONDENTS

ORDER:

Petitioner seeks a Writ of Mandamus to declare the action of the respondents 1, 2 and 4 in taking steps to demolish and alter his property in premises No.5-5-182/1, Darusalam, Nampally Road, Hyderabad without following due process of law as illegal and arbitrary.

Learned counsel for the petitioner submits that petitioner is the owner and possessor of 93 sq. yards of property bearing No.5-5-182/1, Darusalam, Hyderabad having inherited the same from his mother and he has given the same on rent to the fourth respondent. While

so, the first respondent acquired petitioner's land in an extent of 20 sq. meters for road widening and paid compensation of Rs.27,500/- under the Land Acquisition Act on 24.05.2005. But the respondents
1, 2 and 4 again are taking steps to demolish the part of the petitioner property and alter the same without following due process of law.
He further submits that if at all the respondents 1 and 2 require some more land for road widening they ought to follow due process of law and the action of the respondents without following the due procedure prescribed under law and without paying any compensation either by way of private negotiations or by way of initiating proceedings under the Land Acquisition Act is utter violation of principles of natural justice as well as Sections 146 and 147 of the Hyderabad Municipal Corporations Act, 1955 (for short 'the Act').

Counter has been filed by the Station House Officer – third respondent stating that there are no specific allegations against him in the writ petition and neither the petitioner nor the fourth respondent approached him by way of any representation with regard to their grievance. It is further stated that he is not the competent authority to issue orders to demolish the petitioner's property and as such it is not fair and proper on the part of the petitioner to implead him unnecessarily.

No doubt widening/laying of the road is in the public interest but while laying the road, if any property of the private individual is coming in the way, it is for the respondents to acquire the same either by way of initiating land acquisition proceedings or by following due process of law.

Having regard to the facts and circumstances of the case,
the respondents 1 and 2 are directed not to demolish the structures or take away any portion of the property of the petitioner and not to dispossess him without following due process of law either under Section 146 or 147 of the Act or by private negotiations or by initiating the proceedings under the Land Acquisition Act, 1894. No costs.

The writ petition is accordingly disposed of.

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V. ESWARAIAH, J

April 10, 2006

DSK